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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

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UNITED STATES OF AMERICA,

Plaintiff,

v.

HECTOR TINAJERO,

Defendant.

MEMORANDUM DECISION AND  
ORDER DISMISSING FOR LACK OF  
JURISDICTION DEFENDANT’S PRO SE  
MOTION FOR MODIFICATION OF  
SENTENCE

Case No. 2:13-CR-291 TS

District Judge Ted Stewart

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This matter is before the Court on Defendant’s pro se Motion for Modification of Sentence.<sup>1</sup> Defendant seeks a modification pursuant to 18 U.S.C. § 3582(c)(2), which permits a sentence modification “in the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission.”

Defendant’s Motion relies on Sentencing Guidelines Amendment 782—effective November 1, 2014, and made retroactive by U.S.S.G. § 1B1.10(d)—which decreased base offense levels for certain drug offenses. Defendant was sentenced as a career offender under United States Sentencing Guideline § 4B1.1. The Court lacks the authority to reduce

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<sup>1</sup> Defendant’s Motion technically only requested the appointment of counsel to pursue a reduction. The Court has construed the Motion as one seeking a reduction and counsel was appointed to review this matter.

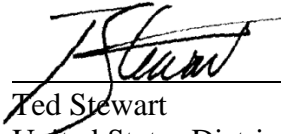
Defendant's sentence under § 3582(c) and Amendment 782 because Defendant was sentenced as a career offender.<sup>2</sup>

It is therefore

ORDERED that Defendant's pro se Motion for Modification of Sentence (Docket No. 98) is DISMISSED FOR LACK OF JURISDICTION.

DATED this 21st day of February, 2017.

BY THE COURT:

A handwritten signature in black ink, appearing to read "T. Stewart", is written over a horizontal line.

Ted Stewart  
United States District Judge

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<sup>2</sup> *United States v. Fisher*, 658 F. App'x 363, 364 (10th Cir. 2016); *United States v. Bowman*, 645 F. App'x 744, 775 (10th Cir. 2016)